

By: Menendez

H.B. No. 1343

A BILL TO BE ENTITLED

AN ACT

relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. BLIND [~~AND DISABLED~~] PEDESTRIANS.

(a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$4,000; and

(2) not less than 100 hours and not more than 200 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in

1 not less than six months and not more than one year. [~~The failure of~~
2 ~~a totally or partially blind or otherwise disabled person to carry a~~
3 ~~white cane or be guided or aided by an assistance animal does not~~
4 ~~deprive the person of the rights and privileges conferred by law on~~
5 ~~pedestrians crossing streets or highways and does not constitute~~
6 ~~evidence of contributory negligence.~~]

7 (d) For the purposes of this section:

8 (1) "Assistance animal" has the meaning assigned by
9 Section 121.002, Human Resources Code.

10 (2) "White cane" has the meaning assigned by Section
11 121.002, Human Resources Code. [~~A person who violates this section~~
12 ~~commits a Class C misdemeanor.~~]

13 SECTION 2. Section 552.003, Transportation Code, is amended
14 by adding Subsections (d) and (e) to read as follows:

15 (d) If it is shown on the trial of an offense under
16 Subsection (a) that as a result of the commission of the offense a
17 collision occurred causing serious bodily injury or death to a
18 visually impaired or disabled person, the offense is a misdemeanor
19 punishable by:

20 (1) a fine of not more than \$4,000; and

21 (2) not less than 100 hours and not more than 200 hours
22 of community service to an organization or agency that primarily
23 serves visually impaired or disabled persons, to be completed in
24 not less than six months and not more than one year.

25 (e) For the purposes of this section:

26 (1) "Visually impaired" has the meaning assigned by
27 Section 91.002, Human Resources Code.

1 (2) "Disabled" means a person who cannot walk without
2 the use or assistance of:

3 (A) a device, including a brace, cane, crutch,
4 prosthesis, or wheelchair; or

5 (B) another person.

6 SECTION 3. Subchapter D, Chapter 542, Transportation Code,
7 is amended by adding Section 542.407 to read as follows:

8 Sec. 542.407. DISPOSITION OF FINES FOR OFFENSE CAUSING
9 INJURY TO CERTAIN PEDESTRIANS. (a) Before depositing money from a
10 fine collected for an offense under Section 552.003(d) or
11 552.010(c) with the appropriate treasury, the officer collecting
12 the fine shall keep separate records of the money collected. Each
13 calendar quarter, the officer collecting a fine for an offense
14 under Section 552.003(d) or 552.010(c) shall submit a report to the
15 comptroller. The report must comply with Articles 103.005(c) and
16 (d), Code of Criminal Procedure.

17 (b) The custodian of money in a treasury to which money
18 described by Subsection (a) is deposited shall:

19 (1) keep records of the amount of money collected
20 under Subsection (a) that is on deposit in the treasury; and

21 (2) until notified otherwise by the comptroller as
22 provided by Subsection (d), not later than the last day of the month
23 following each calendar quarter, remit to the comptroller an amount
24 equal to 10 percent of the money described by Subsection (a) that
25 was deposited in the treasury during the previous calendar quarter,
26 as required by the comptroller.

27 (c) The comptroller shall deposit money received under

1 Subsection (b) to the credit of a special account in the general
2 revenue fund to be known as the visually impaired safety services
3 account. Money in the account may be appropriated only to the
4 Department of Assistive and Rehabilitative Services to provide the
5 following to visually impaired persons:

- 6 (1) adjustment to blindness counseling and guidance;
- 7 (2) coordination of eye medical treatment;
- 8 (3) service to maximize residual vision;
- 9 (4) independent living skills training;
- 10 (5) assistance in accessing community resources; and
- 11 (6) training and self-management education for
12 secondary disabilities.

13 (d) In any state fiscal year, once the amount deposited in
14 the special account under Subsection (c) during the fiscal year
15 exceeds \$500,000, the comptroller shall notify any custodian making
16 a remittance under Subsection (b) that further remittances for the
17 fiscal year are not required. The comptroller shall refund any
18 remittance received after the account exceeds that amount.

19 SECTION 4. (a) The change in law made by this Act applies
20 only to an offense committed on or after the effective date of this
21 Act. For purposes of this section, an offense is committed before
22 the effective date of this Act if any element of the offense occurs
23 before that date.

24 (b) An offense committed before the effective date of this
25 Act is covered by the law in effect when the offense was committed,
26 and the former law is continued in effect for that purpose.

27 SECTION 5. This Act takes effect September 1, 2009.